

EUROPEAN AND CZECH LEGISLATION IN THE AREA OF ANIMAL PRODUCTION

EUROPSKO I ČEŠKO ZAKONODAVSTVO U PODRUČJU PROIZVODNJE ŽIVOTINJA

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SUMMARY

The Regulation No 882/2004 of the European Parliament and of the Council on official control was enacted to ensure the verification of compliance with feed and food law, animal health and animal welfare rules and it defines the European Community's duties as regards the organisation of the control as well as the rules which must be respected by the national authorities responsible for carrying out the official control. On the other hand, there still exist some specialities in implementation of control and supervision including animal production control in every country. The control system of animal production in the Czech Republic is handled by a few legal acts, which should ensure food and feed safety in general.

Key words: European legislation, Czech legislation, animal production

INTRODUCTION

There are many factors within the food chain which influence food safety. Food safety policy and legislation in the European Union are based on the principle "from farm to table". This means that throughout the food chain in all food sectors a high level of human health and consumer protection is ensured.¹ The General Food Law² confirms this comprehensive and integrated approach to food safety. All parts of food chain are interconnected and they interact themselves. However, we could distinguish plant and animal production within food chain. It is possible to say that more attention should be and is paid to animal production because of its risk for human health and rural economy.

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¹ Knura S. and the others: Agri-food production chain. In Safety in the Agri-Food Chain. Wageningen: Wageningen Academic Publishers. 2006. Page 19.

² Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety, as amended.

Food crisis in the last decade of last century called for reorganisation of legislation and control system which ensure on one side the high level of foodstuff safety and of human health protection and on the other side the functional internal market. The new European Food Law has been in force in the last ten years and is based on several crucial principles. Besides the others³ a business operator's primary responsibility is confirmed in article 17 of General Food Law. It is laid down that food must not be placed on the market if it is unsafe. The primary responsibility of food and feed business operators is that the activities under their control are carried out in compliance with the law. That is why business operators are in the best position to determine quality and safety of sources. That responsibility cannot be assumed by another person. On the other hand, only the state has the power to enforce the law. There is a general obligation of member states to organise official control for the purpose. In compliance with article 17 (2) of General Food Law member states shall enforce food law, and monitor and verify that the relevant requirements of food law are fulfilled by food and feed business operators at all stages of production, processing and distribution. *Although the aspects of control and enforcement of the law fall into national legislative area*, there a harmonised Community framework was set to design and integrate national control systems at all stages of production and in all relevant sectors. The Regulation on Official Control⁴ has made new demands on member states and competent national authorities in this way.

ANIMAL PRODUCTION LEGISLATION

Firstly, it is necessary to define animal production. This term includes a lot of aspects which have to be taken into account in food chain safety. Animal production could be defined as an antinomy of plant production. Animal production is a basic branch of agricultural production. It includes livestock breeding with the purpose of animal origin foodstuff production. Wholesome safe food of animal origin can only be produced from healthy animals kept in hygienic conditions and in husbandry systems that cause them minimal stress, combined with the responsible use of veterinary medicinal products.⁵ Furthermore animal health is affected by feedingstuff quality and safety. According to the above mentioned, animal production covers these food safety aspects:

- Animal health
- Animal welfare
- Animal nutrition (feedingstuffs)
- Animal by-products (animal waste)
- Animal origin foodstuffs

Firstly, it is necessary to mention that legal base of animal production comes out Community law. The role of national legislation is just executive. Some principles of legislation of each animal production area are mentioned.

Legislation on animal health in the narrow sense of the word is focused on prevention and combats disease afflicting animals. This legislation includes requirements on the surveillance, notification and treatment of infectious diseases and their vectors, and specific provisions for certain diseases such as

³ It is possible to list precautionary principle, principle of transparency, risk analysis or principle of traceability.

⁴ Regulation (EC) No 882/2004 of the European Parliament and of the Council of 29 April 2004 on official controls performed to ensure the verification of compliance with feed and food law, animal health and animal welfare rules, as amended.

⁵ Knura S. and the others: Agri-food production chain. In Safety in the Agri-Food Chain. Wageningen: Wageningen Academic Publishers. 2006. Page 33.

bovine spongiform encephalopathy (BSE), foot and mouth disease or bird flu.⁶ Rules applicable to animal medicines could be included into this field. Animal health legislation deals with both intra-community trade and importation from third countries. Some principal legislative measures are mentioned herein. Besides registration or approval of business operators there is a need to identify animals in order to ensure traceability of animals for veterinary purposes and efficient supervision. Business operators have responsibility for animal protection against diseases including zoonoses. On the other hand, control authorities carry out programs on eradication and monitoring of animal disease which represent other preventive measures. Safe movement of animals is ensured by veterinary certificates containing information on animal health and animal origin and by controls at the origin and final destinations. Single electronic database of all competent veterinary authorities in the EU (called TRACES) supports the effective monitoring of animal movements.

Animal health is interrelated with animal welfare. It is clear that stressed animals are more likely to develop diseases. There are three aspects within animal welfare legislation which farmers or keepers shall comply with: requirements on animal welfare on farms, requirements for animal welfare during transport and requirements for animal welfare at slaughter. All the mentioned legal requirements reflect so-called “Five Freedoms”: freedom from hunger and thirst, freedom from discomfort, freedom from pain, injury and disease, freedom to express normal behaviour and freedom from fear and distress.

The safety of food of animal origin begins with safe animal feed⁷. Nowadays there are almost same requirements on feed safety as for food safety. Legal requirements for feedingstuffs are focused on

- Aspects of hygiene based on approved or registered business operators who apply HACCP systems and Good Hygiene Practice and keep appropriate records for ensuring feed traceability;
- Aspects of quality including quality of feed materials⁸ shall be put on the market if they are sound, genuine and of merchantable quality. Quality of feedingstuffs is impacted by other substances. Maximum levels of undesirable substances are set. The presence of some substances is explicitly prohibited. Additives could be used in feedingstuffs if they are evaluated and authorised and if they show some specific favourable functional characteristics;
- Aspects of marketing including for example requirements for labelling and packaging.

Animal by-products are defined as the entire bodies or parts of bodies of animals or products of animal origin not intended for human consumption. They present a specific type of waste which is dangerous for animal and human health but on the other hand its usage (after transformation) is necessary in some sectors (farming, cosmetics). Legislation deals especially with handling, processing and use or disposal of animal by-products according to their characteristic.

General Food Law sets down provision that business operators shall not place unsafe food on the market. Current legislation impacts a lot of requirements on business operators, for example requirements on hygiene, labeling, processing methods, without regard to plant or animal origin foodstuffs. But it arises from risk analysis that animal origin foodstuffs present more microbiological and chemical hazards i.e. why other specific requirements are set for hygiene of theirs. Almost all establishments handling products of animal origin shall be approved by the competent authority in their Member State. Products of animal origin shall be given a health mark or an identification mark identifying exporting country and establishment.

⁶ See <http://europa.eu/scadplus/leg/en/s83000.htm>

⁷ Chapter 5 of White Paper on Food Safety COM (1999) 719 final

⁸ The quality of feed material is interconnected with aspects of plant health and for example Good Agricultural Practice.

OFFICIAL CONTROLS

As mentioned above the primary control is carried out by food and feed business operators. They have obligation to apply internal control systems within their business activities. The competent authorities carry out the second level of the control whether food and feed business operators respect Community and national legislation. Finally, whether the member state control is carried out in an appropriate way and whether the national control system is functional Community control is (inspections and auditing) by the Commission's Food and Veterinary Office (FVO) for this purpose.

Official control is defined in article 2 point 1 of Regulation on Official Controls as any form of control that the competent authority or the Community performs for the verification of compliance with food and feed law, animal health and animal welfare rules.

Application of legal requirement compliance set both in Community and national law is controlled by competent state authorities. New integrated approach was also introduced in the control field. However, there are specific control systems in each Member state but the principles of control performance are unified.

1. The performance of official control shall be without prejudice to food and feed business operators' primary legal responsibility and any civil or criminal liability arising from the breach of their obligations. (Art. 1 (4) Regulation on Official Control);

2. Official control shall be carried out regularly, on a risk basis and with appropriate frequency, as a rule without prior warning. (Art. 3 (1) and (2) Regulation on Official Control);

3. Official control shall cover the whole food chain (from farm to fork). (Art. 3 (3) Regulation on Official Control);

4. Official control shall be carried out in compliance with both transparency and confidentiality principles. (Art. 7 Regulation on Official Control) ;

5. Official control shall be applied, with the same care, to products within Community, to products imported from the third countries or to products exported outside Community. (Art. 3 (4) Regulation on Official Control);

6. In case of non-compliance or breach of law identification timely and appropriate measures shall be adopted at national level throughout the Community to ensure remedy.

Specific provisions set in Regulation (EC) No 854/2004⁹ on official control of products of animal origin intended for human consumption with respect to above mentioned specific aspects of their complement to Regulation on Official Control.

The on-site visit shall be made before approval of establishment.

Official control include audits of good hygiene practice and HACCP based procedures and specific audits according to types of products.

Audits are performed by official veterinarian who is appointed and authorised by competent authority and who has solid professional qualifications.

Effective implementation of member state obligation on official control organisation is assisted by single integrated multi-annual national control plan (MANCP) which shall be prepared by each member state in

⁹ Regulation (EC) No 854/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific rules for the organisation of official controls on products of animal origin intended for human consumption, as amended

accordance with guidelines¹⁰ drawn up by the Commission. Competent authorities carry out official control in compliance with MANCP.

Animal production control and supervision come under Ministry of Agriculture. Each animal production area is under supervision of some administrative competent authorities which are managed by Ministry of Agriculture. Their competences arise from national legislation. Ministry of Agriculture in cooperation with other relevant subjects prepared MANCP for the period 2007 – 2009 in compliance with articles 41 – 43 Regulation on Official Controls and with respect to Commission Decision on Guidelines¹¹. The MANCP summaries control systems in relevant areas in the Czech Republic and it is groundwork for planning, development and coordination of control activities.

Control itself is carried out according to the Act No 552/1991 Coll. on State control, as amended, which lays down the principal rules for control activities in compliance with Community legislation requirements. Moreover each competent authority draw up their own annual control plan.

State Veterinary Administration (SVA) is in my opinion the most crucial authority within animal production area. State Veterinary Administration together with other administrative veterinary authorities ensures veterinary care within the Czech Republic in accordance with the Veterinary Act¹². Veterinary care is defined as a care for animal health and its protection, for animal products (food and feed) safety (see below). Veterinary care also involves veterinary protection in the Czech Republic territory, environment protection and veterinary sanitation. State veterinary supervision is a part of veterinary care too. SVA has mainly managing and organisation powers. Control implementation within veterinary care is ensured by inspectors of regional veterinary administrations. In case of import control SVA cooperates with Customs Administration.

The area of veterinary medical products including medicated feedingstuffs and residues as a consequence of their application is a part of veterinary care. **Institute for State Control of Veterinary Biologicals and Medicines**¹³ (ISCVBM) is responsible for this area. Its powers arise from the Act on Drugs¹⁴ (veterinary medical products) and the Veterinary Act (veterinary products, other than medical one).

Effective veterinary care could not be carried out without appropriate identification and registration of animals. **Czech Breeding Inspection (CBI)** oversees, besides identification and registration of animals, livestock breeding in accordance with Breeding Act¹⁵. CBI cooperates with SVA and they share information within animal movement controls.

Central Institute for Supervising and Testing in Agriculture (CISTA) is responsible for feed safety of animal origin feedingstuffs (under SVA) and medicated feeds (under ISCVBM). CISTA also complements

¹⁰ Technical guidelines are not binding but they are useful for better implementation of Community regulations and they shall be taken into account according to the article 43 (1) of Regulation on Official Controls. The importance of the guidelines lies in promotion consistent, comprehensive and integrated approach to the operation of controls.

¹¹ Commission Decision of 21 May 2007 on guidelines to assist Member States in preparing the single integrated multiannual national control plan provided for a Regulation (EC) No 882/2004 of the European Parliament and of the Council

¹² Act No 166/1999 Coll. on Veterinary Care and on changes of other related acts, as amended

¹³ ISCVBM has different position against other mentioned authorities. It has national jurisdiction similarly but it is subordinated to State Veterinary Office instead of directly to Ministry of Agriculture.

¹⁴ Act No 378/2007 Coll. on Drugs and on changes of other related acts, as amended

¹⁵ Act No 154/2000 Coll. on animal breeding, on farm animal registration and on changes of other related acts, as amended.

SVA competences in the area of animal by-products, particularly in relation to feedban and usage of animal by-products in feedingstuffs. CISTA are given the power by Act on CISTA and Act on Feedingstuffs.¹⁶

Animal origin foodstuffs, because of their higher potential risk to human health, are subject to stricter requirements just within the control area. Official control of animal origin foodstuffs is carried out by both SVA and **Czech Agriculture and Food Inspection Authority** (CAFIA). It is stated in the Act on Foodstuffs¹⁷ that CAFIA performs state supervision in those areas where it is not performed by SVA. What does it mean? Primarily, SVA is responsible for animal origin foodstuff control including their imports. However, CAFIA controls retailing of foodstuffs including processed animal origin foodstuffs.

With respect to number of competent authorities the question arises how to ensure efficient and effective coordination among all of them in compliance with article 4 (3) of Regulation on Official Control. For this purpose reorganisation within Ministry of Agriculture was done three years ago and Food Authority was established as a ministerial section which coordinates the control of subordinated administrative bodies.

Official control is performed in the form of supervising activity. It includes control, evaluation and remedy imposition according to the Czech theory of administrative law. Some of the control is planned for each year and is based on results of risk analysis. The others are extraordinary and are targeted on a problematic situation (for example RASFF notification). Precautionary supervision and follow-up supervision must be distinguished. The latter presents a reaction to correct measure implementation. Besides supervising activities, competent authorities carry out monitoring of adulterating substances within food chains and of zoonoses. The monitoring data are used, for example, as motions to supervising activity.

Above mentioned national legislation warrants competent authorities to take an action in case of non-compliance. Corrective measures are mostly imposed together with fines. However, it is necessary to highlight that punishment imposition is not primarily the aim of the official control performance.

Achieving the objectives of official control shall be supported by internal or external audits¹⁸ which each competent authority shall undergo. The purpose of audit system is to verify whether official control is carried out as intended, effectively implemented and suitable to achieve the objectives of the relevant legislation including compliance with MANCP. SVA, CISTA and CAFIA have independent internal audit unit which are subordinated directly to Director General. Moreover ISO 2009 is implemented in SVA and CAFIA or will be implemented in CISTA by the end of 2009.

CONCLUSION

The official control system within animal production in the Czech Republic seems to be rather complicated. On the other hand taking into consideration the whole scope of animal production this system cannot be simple. In recent years the food crisis in Europe as well as the FVO inspection have proved that the Czech control system in the field of animal production is functional and flexible. The question is whether the control in future could be ensured by only one or two competent authorities or whether some competences should be delegated to private sector. This model is quite successful in some European

¹⁶ Act No 147/2002 Coll. on Central Institute for Supervising and Testing in Agriculture, as amended; Act No 91/1996 Coll. on Feedingstuffs, as amended

¹⁷ Act No 110/1997 Coll. on foodstuffs and tobacco products and on changes of other related acts, as amended

¹⁸ Audit means a systematic and independent examination to determine whether activities and related results comply with planned arrangements and whether these arrangements are implemented effectively and are suitable to achieve objectives (see Art. 2 (6) Regulation on Official Controls).

countries (the Netherlands, Ireland, Austria) and its main advantage is less bureaucracy and fewer expenses as well as higher flexibility. It is possible to say that more involved control authorities means better control and major consumer protection opposite to the burden of business operators. It is supposed that in future the private sector will also become a part of this system which is impossible nowadays, mainly for lack of control impartiality.

SAŽETAK

Pravilnik br. 882/2004 Europskog parlamenta i vijeća o službenoj kontroli donesen je radi osiguranja dokaza o udovoljavanju zakonu o hrani i krmivu, pravilima o zdravlju i dobrobiti životinja, te određuje dužnosti Europske zajednice u vezi s organizacijom kontrole kao i propisa kojih se moraju držati državne vlasti odgovorne za provođenje službene kontrole. S druge strane, još uvijek postoje neke osobitosti u provođenju kontrole i nadzora, uključujući proizvodnju životinja u pojedinoj zemlji. Sustav kontrole proizvodnje životinja u Republici Češkoj provodi se pomoću nekoliko akata koji bi trebali jamčiti sigurnost hrane i krmiva.

Ključne riječi: europsko zakonodavstvo, češko zakonodavstvo, proizvodnja životinja

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